

Exhibit 24

Maroney Testimony

U.S. COMMODITY FUTURES TRADING COMMISSION

)
In the Matter of:)
Monex:)
) Matter Number:
) N/A
Testimony of:)
Michael Maroney)
_____)

APPEARANCES:

For the U.S. Commodity Futures Trading Commission:

COMMODITY FUTURES TRADING COMMISSION

DIVISION OF ENFORCEMENT

BY: JOSEPH A. KONIZESKI

BY: CARLIN METZGER

Attorneys at Law

525 West Monroe Street, Suite 1100

Chicago, Illinois 60661

312.596.0546

jkonizeski@cftc.gov

cmetzger@cftc.gov

MARY BETH SPEAR (Telephonic appearance.)

Futures Trading Investigator

525 West Monroe Street, Suite 1100

Chicago, Illinois 60661

312.596.0546

1 APPEARANCES (Continued):

2

3 For the Witness:

4 FARELLA BRAUN + MARTELL, LLP

5 BY: NEIL A. GOTEINER

6 Attorney at Law

7 Russ Building

8 235 Montgomery Street

9 San Francisco, California 94104

10 415.954.4400

11 ngoteiner@fbm.com

12

13 For Monex:

14 MONEX DEPOSIT COMPANY

15 BY: GREGORY G. Walker

16 Attorney at Law

17 4910 Birch Street

18 Newport Beach, California 92660

19 949.752.1400 Ext. 6500

20 ggwalker@monex.com

21

22

23

24

25

1 MR. KONIZESKI: We are back on the record at
2 approximately 11:24.

3 Q So, Mr. Maroney, we were talking about
4 collateral calls as described in the document that you
5 have before you. And you indicated, I think, that
6 typically Monex provides up to five days to meet a margin
7 call; is that right?

8 A Collateral call, yeah.

9 Q So is a collateral call the same as an equity
10 call or is it the same as a margin call?

11 A An equity call.

12 Q Are you familiar with the auto forced sell
13 system?

14 A At Monex?

15 Q Yes.

16 A Yes.

17 Q How does the auto forced sell system work?

18 A Once an account hits 7 or below 7 the trade
19 department can push a button and then it will
20 automatically forced sell anybody at or below those
21 levels.

22 Q Are you familiar with any automated use of that
23 particular system?

24 A By definition, I guess, when they push the
25 button, is that automated?

1 an additional handling charge added on to that specific
2 product, based on the fact that it weighs somewhere
3 between 61 and 67 pounds and it's small and very
4 difficult to actually put into a specific pile.

5 Q Similar questions with respect to the first two
6 items in the gold chart, not chart, gold table, \$50 each
7 and then a series of "nones"?

8 A Yeah, the handling charge per unit on those
9 products, I think what you're looking at in that
10 situation is more of a fabrication premium.

11 Q What's the difference between the handling
12 charge and the delivery charge?

13 A The transaction fee is -- one transaction fee is
14 \$20 and you could do 20, 30 units and then you would pay
15 85 plus 40 per unit after that. The transaction fee is
16 just a setup fee for the actual pickup or delivery, and
17 then the 85 and 40 combine together the actual cost.
18 Same thing as far as the gold is concerned. If you're
19 doing a 10-ounce bar it's \$20 transaction fee, \$10 for
20 delivery and then an additional premium of \$50 per bar.

21 Q Let's take a look at page 861. Take a moment to
22 familiarize yourself with the page. I don't think you
23 need to read it all. Just initially it says "Position
24 Reports (R017)." Are you familiar with the position
25 report that is distributed at Monex?

1 A Yes.

2 Q Is the current position report that is
3 distributed at Monex consistent with the appearance of
4 this particular example?

5 A Ironically, the position report that's described
6 in this actual document is no longer going to be
7 distributed at Monex in an effort to offset the use of
8 massive amounts of paper. So now it's going to be on
9 their computer.

10 Q So has Monex gone to an electronic format for
11 the position report?

12 A We're trying to. It will be interesting to see
13 if account reps can adapt, but it started as of this
14 week.

15 Q When this week?

16 A I think yesterday. Old dogs are hard to teach
17 new tricks. They like paper.

18 Q So up until yesterday is the position report
19 example contained in this exhibit consistent with the
20 paper position report that was distributed to all
21 equity -- all account representatives?

22 A It's not identical. I think the actual numbers
23 are in different proximity, based on what I'm looking at
24 here, but I think it's -- it includes everything. But I
25 think they kind of shoved it into a smaller space because

1 the paper that it was on was this long. So since it's
2 this long they've kind of pushed it together. It's much
3 longer and smaller.

4 Q The information that's contained in this sample
5 position report, is that consistent with the information
6 that would be provided to account representatives on a
7 daily basis?

8 A Basically, yes.

9 Q Is this the same information that will continue
10 to be provided to account representatives on a
11 going-forward basis?

12 A Yeah, and this actually may be the new format
13 that we're looking at right here.

14 Q Who made the assessment or determined that
15 account representatives would -- let me take a step back.

16 When was the decision made to move to an
17 electronic position report?

18 A It was announced a week ago.

19 Q Who announced it?

20 A I told the account reps. I was told by Mike
21 Carabini and Brian Jenkins that we were no longer going
22 to be using Green Bar, is what we call it.

23 Q Tell me about that conversation you had with
24 Mr. Carabini and Mr. Jenkins. Were you all together?

25 A No.

1 Q Where were you?

2 A I was sitting at my desk.

3 Q Where was Mr. Carabini?

4 A He was on the phone somewhere.

5 Q Where was Mr. Jenkins?

6 A I think he was on the phone somewhere too.

7 Q And how did this conversation get started?

8 A I picked up the phone, I said "Mike."

9 "I think we're going to eliminate these position
10 reports, we're using too much paper."

11 Q Who said that?

12 A Mike.

13 Q Mr. Carabini?

14 A Yeah. I said, "That's fine, but maybe we can do
15 one a month so the guys can have it so they can kind of
16 get used to it." He said, "Okay, we'll talk about it."

17 Q Other than the use of paper, did Mr. Carabini
18 indicate to you any other reasons why the --

19 A Well, security purposes. I mean we have to,
20 every day, collect them, put them in special garbage
21 cans, we have to have them shredded for customer
22 confidentiality, and unfortunately it's something that's
23 somewhat time-consuming.

24 Q Well, did Mr. Carabini explain that?

25 A No, he didn't. I was being assumptive again.

1 Q Did Mr. Carabini reference any other reason for
2 changing from the paper position reports to electronic
3 position reports?

4 A I think most California companies and most
5 companies in the United States have been trying to go
6 green somewhat, and I think it's more of an environmental
7 issue than anything.

8 Q Did Mr. Carabini reference any other reason in
9 his communication with you?

10 A No.

11 Q Did Mr. Jenkins reference any reason for going
12 to an electronic format?

13 A No.

14 Q Did Mr. Jenkins talk in the course of this
15 conversation?

16 A No.

17 Q Was there any discussion of recordkeeping for
18 these electronic documents?

19 A Recordkeeping for the electronic documents? Not
20 with me.

21 Q You didn't raise a question about, well, how do
22 we know that these position reports are going to be
23 available if there's a problem on a particular account?

24 A I would assume that if they've -- if they are on
25 a computer I should be able to go backwards and find one.

1 Q But you didn't have a discussion regarding that?

2 A No, once again, I was probably assuming that
3 that would happen if I needed it.

4 Q So if I were to go to the fourth floor of Monex
5 today, how many position reports, actual printed position
6 reports would there be?

7 A There would still be some floating around
8 because some of the older guys kind of needed it for a
9 frame of reference, but most of them would be probably in
10 the garbage cans. I actually have a couple in my office
11 that I was looking at the other day, so there would
12 probably be a couple more including my office.

13 Q Are you aware of a document preservation demand
14 that was sent to Monex by the Commodity Futures Trading
15 Commission?

16 A No.

17 MR. GOTEINER: You might want to ask if the
18 documents are maintained another way, and if it's an
19 issue we should talk about it. I'm sure you don't want
20 us saving every scrap of paper that's digitally saved.

21 BY MR. KONIZESKI:

22 Q So directing your attention to the sample
23 position report, can you tell me what information an
24 account representative is expected to review and
25 familiarize themselves with when they receive it?

1 A Typically, it's just an easy access view of all
2 the customers that you have that you can go through very
3 quickly on a piece of paper instead of having to scroll
4 through on a computer. Normally what they would look at
5 is they look at equity requirements, and a lot of guys,
6 that's the first thing they look at just to make sure
7 that the customer's equity is at a level that they don't
8 need to give them a preliminary call and say, you know
9 what, it might be getting close. So equity is something
10 they look at.

11 Other than that, if the customer was interested
12 in placing another transaction and they needed specific
13 information they would give them the excess equity
14 amount. If the customer called and said I want to take
15 delivery of everything, we'd just give them the loan
16 balance amount and the additional cost as far as delivery
17 is concerned, but it just gives somebody a quick overview
18 that's available also in your computer as far as where
19 each account sits.

20 Q So can the account representative access this
21 information through the ARIS system?

22 A Oh, it's actually -- the ARIS system is
23 specifically the account rep information system. There's
24 something called the MICA system that they can actually
25 access all of this information through, which is

1 connected to the ARIS system but it's called the MICA
2 system.

3 Q The MICA system, does that update the account
4 information on a realtime basis?

5 A Yeah.

6 Q Before we move on to something else, turn to the
7 next page, please.

8 A Next page being 62 or --

9 Q Correct. There's a series of -- it says trade
10 desk scripts.

11 A Yes.

12 Q Do you recognize that?

13 A Yes.

14 Q Are these all the scripts that are provided to
15 account representatives or are there other scripts
16 available to account representatives?

17 A That's about it.

18 Q Well, there is the verbal disclosure, correct?

19 A Yes.

20 Q So would you count that as a script?

21 A I'd count that as a verbal disclosure, so I
22 guess it's a disclosure -- it's a disclosure script,
23 okay.

24 Q Any other sales scripts?

25 A Is there an after -- I'm trying to think of

1 compliance.

2 Q So I'm going to direct your attention now to
3 page 886.

4 A Okay.

5 Q Can you tell me, is this the current account
6 representative commission plan that's in place at Monex?

7 A Uh-huh.

8 Q It is?

9 A Yeah.

10 Q Okay. So can you just describe to me what are
11 NAIDS, N-A-I-D-S?

12 A New account index doubles.

13 Q Okay. And so what types of transactions or
14 accounts create new account index doubles?

15 A First time financed transactions.

16 Q And that would be an Atlas account?

17 A Correct.

18 Q And then what are NAIPS, N-A-I-P-S?

19 A Those are new account index points.

20 Q And what kind of transactions are --

21 A Any transaction done with a new account, new
22 customer.

23 Q So let me just ask you this. Is it more
24 valuable from the account representative's position to
25 have a customer open a 1,000-ounce position in an Atlas

1 account or to have someone purchase a thousand ounces of
2 silver outright?

3 A Basically it creates the same number of index
4 points, but for the one category, the NAIDS, if you do
5 financed you get 5,000 extra per month if you do those.
6 So it would create a little bit of extra compensation in
7 that situation, yes.

8 Q Directing your attention to item number 4,
9 "Monthly Financed Customer Bonus"?

10 A Yes.

11 Q Is that currently in place at Monex, to your
12 knowledge?

13 A Yes, I think it is.

14 Q So if you open three financed or reactivate
15 three financed accounts you get an additional \$200?

16 A Correct.

17 Q On a monthly basis?

18 A Well, you'd have to do it on a monthly basis to
19 get the 200, yes.

20 Q Directing your attention to page 889, at the top
21 it references "Lead Allocation"?

22 A Okay.

23 Q Are you familiar with the lead allocation
24 program at Monex?

25 A Yes.